

REMARKS

1. Summary of Rejections

In the Office Action mailed December 10, 2004, the Examiner rejected claims 1-3, 7, 11-12, 15, and 21-22 under 35 U.S.C. § 103(a) as being unpatentable over Snapp, U.S. Patent No. 5,875,398 in view of Nakamura, U.S. Patent No. 5,943,617 ("Nakamura").

The Examiner rejected claims 6, 8-10, 14, and 16-20 under 35 U.S.C. § 103(a) as being unpatentable over Snapp and Nakamura, in view of Ortiz Perez et al., U.S. Patent No. 5,469,494 ("Ortiz Perez").

The Examiner rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Snapp and Nakamura, in view of Anderson, U.S. Patent No. 6,199,032 ("Anderson").

The Examiner rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Snapp and Nakamura, in view of Selig et al., U.S. Patent No. 5,764,726 ("Selig").

Applicants respectfully request reconsideration and allowance of the claims for the reasons set forth below.

2. Response to Rejections

a. **Claims 1-11**

Of these claims, claim 1 is independent. The Examiner has rejected claim 1 under § 103(a) as being unpatentable over Snapp in view of Nakamura. However, the Examiner's rejection of claim 1 is flawed for at the least the reason that the

Snapp/Nakamura combination fails to teach or suggest all of the limitations of claim 1. Thus, the Examiner has not established a *prima facie* case of obviousness of claim 1. See MPEP § 2143.03.

The Examiner has alleged that Snapp discloses steps (a) and (b) of claim 1. In fact, Snapp does not disclose either of these two steps. Step (a) recites “*using a test host to cause* a first communication device to send a first test signal into a communication channel” (emphasis added). The Examiner has described the automated test set 130 in Snapp as a “test host” and has described the technician terminal 110 as a “first communication device.” However, test set 130 is not used to cause terminal 110 to send a first test signal, as recited in step (a) of claim 1. To the contrary, it is the terminal 110, under the control of a technician, which initiates communications with the test set 130:

A technician in Seattle can begin a test session at a technician terminal 110. The terminal [110] can initiate communications with the test set [130] via a communication network 111.

(col. 2, lines 35-37). Indeed, test set 130 responds to commands provided by the technician terminal 110. (col. 2, lines 46-48; col. 3, lines 1-3). Thus, Snapp does not teach using test set 130 to cause terminal 110 to send a first test signal but, rather, teaches the directly opposite approach of using terminal 110 to control test set 130.

Step (b) recites “receiving a second test signal in the test host *from the communications channel* via a second communication device” (emphasis added). In the Examiner’s rationale, the Examiner has identified telephone 120 as the second communication device and has alleged that col. 2, lines 39-41 of Snapp teaches step (b). However, “the communications channel” in step (b) refers to the communications

channel into which the first communication device sends the first test signal in step (a). As noted above, the Examiner has identified terminal 110 as “the first communication device” and has alleged that col. 2, lines 35-39 of Snapp teaches step (a). Those lines of Snapp state that terminal 110 initiates communications with test set 10 “via a communication network 111.” (col. 2, lines 36-37). Thus, communication network 111 is the “communications channel” in the Examiner’s step (a) rationale. For step (b), the Examiner has identified telephone 120 as the “second communication device.” However, test set 130 does not receive a second test signal in the test host from network 111 via telephone 120. Instead of using network 111, telephone 120 communicates with test set 130 via the PSTN 121, an MSC 122, a cell site 123, and an over-the-air connection to cell phone 131. (col. 2, lines 40-46; Figure 1). Because the Examiner’s rationale for step (b) assumes an entirely different “communications channel” than the Examiner’s rationale for step (a), the Examiner has not established that Snapp teaches both of these steps.

For at least the foregoing reasons, Applicants submit that claim 1 is allowable over Snapp, Nakamura, and the other prior art of record. Applicants further submit that claims 2-11 are also allowable for at least the reason that they are dependent upon an allowable claim.

b. Claim 12

The Examiner has rejected claim 12 under § 103(a) as being unpatentable over Snapp in view of Nakamura. However, the Examiner’s rejection of claim 12 is flawed for at the least the reason that the Snapp/Nakamura combination fails to teach or suggest

all of the limitations of claim 12. Thus, the Examiner has not established a *prima facie* case of obviousness of claim 12. *See* MPEP § 2143.03.

Step (a) of claim 12 recites “*using a test host to cause* a first non-simulated wireless subscriber terminal to send a first set of data into a communications channel” (emphasis added). However, the Examiner has not shown that Snapp teaches the use of a test host (which the Examiner identifies as test set 130) to cause a first non-simulated wireless subscriber terminal (which the Examiner identifies as technician terminal 110) to send a first set of data into a communications channel. As noted above with regard to step (a) of claim 1, terminal 110 controls test set 130, not the reverse.

In addition, step (b) of claim 12 recites “a second non-simulated wireless subscriber terminal,” which the Examiner alleges corresponds to telephone 120 in Snapp. However, the Examiner has not shown that telephone 120 in Snapp is a wireless subscriber terminal at all. To the contrary, Figure 1 of Snapp shows telephone 120 as being a landline telephone, and Snapp describes telephone 120 as being connected to the PSTN 121 (col. 2, lines 41-42). Thus, the Examiner has not shown that Snapp teaches step (b) of claim 12.

Accordingly, Applicants respectfully submit that claim 12 is patentable over Snapp, Nakamura and the other prior art of record for at least the foregoing reasons.

c. Claims 14-23

Of these claims, claim 23 is independent. The Examiner has rejected claim 23 under § 103(a) as being unpatentable over Snapp in view of Nakamura. However, the Examiner’s rejection of claim 23 is flawed for at the least the reason that the

Snapp/Nakamura combination fails to teach or suggest all of the limitations of claim 23. Thus, the Examiner has not established a *prima facie* case of obviousness of claim 23. See MPEP § 2143.03.

Claim 23 recites a “test host including ... a sending a component that causes the first communication device to send the first test signal into the network.” The Examiner has identified test set 130 in Snapp as a “test host” and has identified technician terminal 110 as the “first communication device.” However, as noted above with respect to step (a) of claim 1, test set 130 in Snapp does not cause terminal 110 to send a test signal into the network. To the contrary, terminal 110 controls test set 130.

Accordingly, Applicants respectfully submit that claim 23 is allowable over Snapp, Nakamura, and the other prior art of record for at least the foregoing reasons. Applicants further submit that claims 14-22 are also allowable for at least the reason that they are dependent upon an allowable claim.

3. **Conclusion**

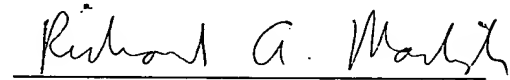
Applicants submit that the present application is now in condition for allowance, and notice to that effect is hereby requested. Should the Examiner feel that further dialog would advance the subject application to issuance, the Examiner is invited to telephone the undersigned at any time at (312) 913-0001.

Respectfully submitted,

**McDONNELL BOEHNEN
HULBERT & BERGHOFF LLP**

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By:



Richard A. Machonkin
Reg. No. 41,962